

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JASON D. FISHER,

Plaintiff,

-against-

FAITH MILLER (SCHEINKMAN), et al.,

Defendants.

21-CV-7784 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, who is proceeding *pro se* and *in forma pauperis*, filed this complaint claiming that Defendants violated the civil provision of the Racketeer Influenced and Corrupt Organizations Act (“RICO”) during family court proceedings in the New York Supreme Court, Westchester County (“state court”). The Court dismissed the action for failure to state a claim, but granted Plaintiff leave to amend. Plaintiff filed an amended complaint, but he does not allege any new facts suggesting a violation of RICO. (*See* ECF 13-1, at 14.) The Court therefore dismisses the action.

DISCUSSION

The Court assumes familiarity with the November 16, 2021, order, dismissing this case. (ECF 11). To summarize, Plaintiff sues his former wife, her parents, her lawyers, and another lawyer involved in the family court matter in state court, as well as that lawyer’s law firm. Plaintiff claims that these individuals have participated in two illegal enterprises with the purpose of defrauding him. In the amended complaint, Plaintiff reasserts the claims asserted in the original complaint: the New York State judiciary is an illegal enterprise, and Defendant Faith Scheinkman’s relationship with her spouse, a judicial officer, “has allowed . . . the Enterprise to remain unquestioned despite the financial interest that Judge Scheinkman has in Miller

(Scheinkman)’s firm.” (ECF 13-1, at 15.) Plaintiff contends that “the persons controlling or directing the affairs of the Enterprise are responsible for attempting to violate the Plaintiff’s bank accounts, email accounts and other financial accounts.” (*Id.* at 27.) He further contends that “[i]n furtherance of its scheme, persons controlling or directing the affairs of the [enterprise] utilize their power through marriage as a means of linking the Defendants and Enterprise,” meaning that Plaintiff’s ex-wife’s lawyer, Defendant Scheinkman, uses her relationship with her husband, Judge Scheinkman, to commit crimes. (*Id.* at 28.)

Plaintiff includes in his complaint a chart of the alleged illegal acts committed by Defendants in furtherance of the alleged enterprise, all of which concern the litigation of his state court action. These acts include: (1) issuing a temporary protection order, (2) filing documents in court; (3) proffering alleged false statements in court; (4) permitting Defendants to violate court orders for the purpose of preventing Plaintiff from seeing his children; (5) destroying evidence; and (6) violating a stay of Plaintiff’s medical coverage. (*Id.* at 142-143.) Plaintiff contends that the “Enterprise Court” allowed Defendants to remove Plaintiff’s documents but “chose not to address or investigate . . . despite having evidence[.]” (*Id.* at 144.)

These acts, in their totality, do not suggest a violation of the RICO statute but rather Plaintiff’s disagreement with the strategies taken, and the decisions made, during his state court litigation. This disagreement, and general frustration with his adversaries in his matrimonial matter, does not state a claim under RICO. Accordingly, the Court dismisses the action for failure to state a claim.

CONCLUSION

The Court dismisses the action for failure to state a claim. *See* 28 U.S.C. § 1915(e)(2)(B)(ii).

The Court directs the Clerk of Court to enter judgment in this case.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: March 3, 2023
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge